

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES JONES,

No. 2:20-cv-1984 WBS AC P

Plaintiff,

v.

CURTIS ALLEN, et al.,

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Defendants.

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, seeks relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 1, 2022, the undersigned issued findings and recommendations which recommended that a defendant in this action be dismissed. ECF No. 18. On July 5, 2022, the district judge assigned to this case adopted the findings and recommendations. ECF No. 20. Shortly thereafter, an order issued directing defendants to be served. ECF No. 21.

On July 12, 2022, the district judge's order adopting the findings and recommendations was returned to the court as "unable to locate." On October 26, 2022, a subsequent order issued by the undersigned which granted defendants' motion for an extension of time to file a responsive pleading was also returned to the court as "undeliverable, return to sender."

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1        Although it appears from the file that plaintiff's copies of the two orders were returned to  
2 the court, plaintiff was properly served. It is the plaintiff's responsibility to keep the court  
3 apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents  
4 at the record address of the party is fully effective. Additionally, more than sixty-three days have  
5 passed since the court's July 5, 2022, order was returned to the court. During this period, plaintiff  
6 has not filed a change of address with the court as required by the Local Rules. See Local Rule  
7 183(b). Therefore, the undersigned will recommend that this matter be dismissed for failure to  
8 prosecute. See id.

9        Accordingly, IT IS HEREBY ORDERED that defendants' deadline to file a responsive  
10 pleading, see ECF No. 30, is VACATED.

11        IT IS FURTHER RECOMMENDED that this action be DISMISSED without prejudice  
12 for failure to prosecute. See Local Rules 110, 183(b); Fed. R. Civ. P. 41(b).

13        These findings and recommendations are submitted to the United States District Judge  
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
15 after being served with these findings and recommendations, any party may file written  
16 objections with the court and serve a copy on all parties. Such a document should be captioned  
17 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
18 objections shall be filed and served within fourteen days after service of the objections. The  
19 parties are advised that failure to file objections within the specified time may waive the right to  
20 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: November 2, 2022

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23 ALLISON CLAIRE  
24 UNITED STATES MAGISTRATE JUDGE  
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